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Proposed Co-Counsel to the Official Committee of Unsecured Creditors

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

CELSIUS NETWORK, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-10964 (MG)

(Jointly Administered)

**SECOND DECLARATION OF JENNIFER M. SELENDY IN SUPPORT OF THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS' APPLICATION FOR
ENTRY OF AN ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF
SELENDY GAY ELSBERG PLLC AS CO-COUNSEL**

I, Jennifer M. Selendy, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true and correct to the best of my knowledge, information, and belief:

1. I am a partner of the law firm Selendy Gay Elsberg PLLC (“**Selendy Gay Elsberg**” or the “**Firm**”), which maintains offices for the practice of law at 1290 Avenue of the Americas, New York, NY 10104. I am a member in good standing of the Bar of the State of New York,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Celsius Network LLC (2148); Celsius KeyFi LLC (4414); Celsius Lending LLC (8417); Celsius Mining LLC (1387); Celsius Network Inc. (1219); Celsius Network Limited (8554); Celsius Networks Lending LLC (3390); Celsius US Holding LLC (7956); GK8 USA LLC (9450); GK8 Ltd. (1209); and GK8 UK Limited (0893). The location of Debtor Celsius Network LLC's principal place of business and the Debtors' service address in these chapter 11 cases is 50 Harrison Street, Suite 209F, Hoboken, New Jersey 07030.

and I have been admitted to practice in New York. There are no disciplinary proceedings pending against me in any jurisdiction.

2. I submit this second declaration (the “**Second Declaration**”) pursuant to sections 328(a) and 1103 of title 11 of the United States Code, Rule 2014(a) and Rule 2016 of the Federal Rules of Bankruptcy Procedure, and Rules 2014-1, 2016 and Rule 9013-1 of the Local Rules for the United States Bankruptcy Court for the Southern District of New York in support of the *The Official Committee of Unsecured Creditors’ Application for Entry of an Order Authorizing the Employment and Retention of Selendy Gay Elsberg PLLC as Co-Counsel Effective as of January 8, 2023* [Docket No. 1964] (the “**Application**”).²

3. To the extent that Selendy Gay Elsberg determines that any information disclosed herein requires amendment or modification upon Selendy Gay Elsberg’s completion of further analysis or as additional information becomes available to it, a supplemental declaration will be submitted to the Court reflecting the same. Except as otherwise noted, I have personal knowledge of the matters set forth herein.³

4. On January 31, 2023, the Official Committee of Unsecured Creditors (the “**Committee**”) filed the Application, together with, among other things, the *Declaration of Jennifer M. Selendy in Support of the Official Committee of Unsecured Creditors’ Application for Entry of an Order Authorizing the Employment and Retention of Selendy Gay Elsberg PLLC as Co-Counsel Effective as of January 8, 2023* [Docket No. 1964] (the “**First Declaration**”). As described in Paragraphs 9–12 of the Application and Paragraph 5 of the First Declaration, the Committee seeks

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

³ Certain of the disclosures herein relate to matters within the knowledge of attorneys or employees of Selendy Gay Elsberg and are based on information provided by them.

to retain Selendy Gay Elsberg to serve as co-counsel on the “**Specified Matters**” and any “**Proposed Additional Services**.”

5. As explained at Paragraphs 9–12 of the Application and Paragraph 5 of the First Declaration, the Specified Matters include the “**FTX Matters**” and the “**WestCap Matters**.”

6. Regarding the FTX Matters, the Committee requested that the Firm represent the Committee in these chapter 11 cases in connection with two matters involving FTX’s restructuring. The first matter is anything related to the case under chapter 15 of the Bankruptcy Code⁴ (the “**FTX Chapter 15 Case**”) commenced on November 15, 2022 in the U.S. Bankruptcy Court for the Southern District of New York by Brian C. Simms, Kevin G. Cambridge, and Peter Greaves, in their capacities as joint provisional liquidators of FTX Digital Markets Ltd., a non-debtor affiliate of the FTX Debtors (in such capacities, the “**FTX JPLs**”).⁵ The second matter is anything involving the FTX JPLs and FTX Digital Markets Ltd. in connection with the chapter 11 cases of FTX Trading Ltd. and its debtor affiliates (collectively, the “**FTX Debtors**”) in the U.S. Bankruptcy Court for the District of Delaware (collectively, the “**FTX Chapter 11 Cases**”).⁶ In that regard, and without limitation, the Committee expects that Selendy Gay Elsberg would analyze—and represent the Committee in connection with any litigation involving—any proof of claim filed in the Debtors’ chapter 11 cases by (1) FTX Digital Markets Ltd., (2) the FTX JPLs, or, (3) to the extent that any FTX Debtor files a proof of claim in the Debtors’ chapter 11 cases, any issues implicated in such proof of claim involving transfers to or from FTX Digital Markets Ltd.

⁴ *In re FTX Digital Markets Ltd.*, No. 22-11217 (Bankr. D. Del.).

⁵ On November 22, 2022, the FTX Chapter 15 Case was transferred to the United States Bankruptcy Court for the District of Delaware. *See* Agreed Order to Transfer Venue, *In re FTX Trading Ltd.*, No. 22-11068 (Bankr. D. Del. Nov. 22, 2022), ECF No. 131.

⁶ *In re FTX Trading Ltd.*, No. 22-11068 (Bankr. D. Del.).

7. Regarding the WestCap Matters, the Committee requested that Selendy Gay Elsberg represent the Committee in connection with litigation or discovery involving WestCap Group LLC entities, such as Community First Partners, LLC, Celsius SPV Investors, LP, Celsius New SPV Investors, LP, and CDP Investissements Inc. (together, the “**Series B Preferred Holders**”). This includes, without limitation, representing the Committee in connection with the Briefed Legal Issue of whether account holders have claims against every debtor entity. *See Order (I) Setting a Briefing Schedule and (II) Granting Related Relief* [Docket No. 1747]. As described in Paragraph 11 of the Application, the Committee seeks to retain Selendy Gay Elsberg to represent it in connection with the WestCap Matters because the Series B Preferred Holders objected to the Committee’s primary counsel, White & Case serving discovery on them in connection with the Briefed Legal Issue, purportedly relating to White & Case’s prior representation of WestCap Group LLC.

8. The Committee and White & Case disagree with the Series B Preferred Holders’ position that White & Case has any connection to WestCap Group LLC that affects its ability to satisfy the requirements for retention as the Committee’s counsel in these chapter 11 cases. Out of an abundance of caution, the Committee determined that it was appropriate under the circumstances to retain separate counsel to handle certain matters involving the Series B Preferred Holders, or that could involve or become adverse to the Series B Preferred Holders. In addition to the Briefed Legal Issue, the Committee anticipates that these issues may arise in connection with confirmation of a chapter 11 plan. For example, on February 28, 2023, the Debtors, NovaWulf Digital Management, LP, and the Committee entered into an agreement (the “**Plan Sponsor Agreement**” or the “**Agreement**”) that will address, among other things, the CNL-Network LLC Intercompany Claim and require the Court to approve the CNL-Network LLC Consolidation, as those terms are defined in the Agreement. While no litigation involving the Agreement is pending at this time, if

the CNL-Network LLC Intercompany Claim or CNL-Network LLC Consolidation involves the Series B Preferred Holders' investment in Celsius Network Ltd., then the Committee anticipates that Selendy Gay Elsberg would represent the Committee in connection therewith.

9. As explained in Paragraph 12 of the Application, to the extent that the Committee wishes to expand the scope of Selendy Gay Elsberg's employment beyond the Specified Matters (and Selendy Gay Elsberg agrees), the Committee will seek further approval from this Court as set forth in Application. Specifically, the Committee will file notice of any Proposed Additional Services and, to the extent necessary, a supplemental declaration, with the Court and serve such notices on the U.S. Trustee, the Committee and any party requesting notice under Bankruptcy Rule 2002. If no such party files an objection within fourteen (14) days of the Committee filing such notice, the Proposed Additional Services and any underlying engagement agreement may be approved by the Court by further order without further notice or hearing.

10. In Paragraph 22 of the First Declaration, I stated that Selendy Gay Elsberg was in the process of preparing and finalizing a prospective budget and staffing plan on the Specified Matters. On behalf of Selendy Gay Elsberg, White & Case has discussed with the Committee and received approval for a budget and staffing plan for the Briefed Legal Issue. The Committee approved a budget of approximately \$250,000–\$750,000 through December 31, 2023 for the Briefed Legal Issue. Recognizing that unforeseeable events may arise in large chapter 11 cases, the Committee and Selendy Gay Elsberg may need to refine and amend the budget and staffing plan as necessary. The budget and staffing plan are intended as estimates and not as caps or limitations on fees or expenses that may be incurred or on the professionals or paraprofessionals who may advise the Committee in this chapter 11 case. In accordance with the U.S. Trustee Guidelines, the budget may be amended as necessary to reflect changed or unanticipated developments.

11. As described in Paragraph 20 of the Application, Selendy Gay Elsberg shall use its best efforts to avoid any duplication of services provided by any of the Committee's other retained professionals in these chapter 11 cases. The precise contours of White & Case's and Selendy Gay Elsberg's roles and responsibilities in connection with any Specified Matter, however, are difficult to predict in advance. For example, where the Committee and White & Case determine that it is likely or possible that a Specified Matter could arise during a hearing in these chapter 11 cases (for example, if a hearing agenda item relates to a Specified Matter), then the Committee and White & Case expect that Selendy Gay Elsberg would appear on behalf of the Committee at the hearing in addition to White & Case, in the event that Selendy Gay Elsberg must act as conflicts counsel to the Committee at that hearing. The Committee believes that this would be necessary and appropriate to ensure that the Committee may discharge its responsibilities and further the interests of its constituents in these chapter 11 cases. The Committee will oversee and supervise the work of both White & Case and Selendy Gay Elsberg in an effort to avoid any duplication of services provided by any of the Committee's other retained professionals in these chapter 11 cases as set forth herein, in the First Declaration, and in the Application.

12. In Paragraph 14 of the First Declaration, I stated that certain of Selendy Gay Elsberg attorneys or staff may be account holders that transferred cryptocurrencies and other digital assets to the Debtors. Selendy Gay Elsberg has checked whether any attorney or staff working on this matter have current accounts or cryptocurrency at Celsius or FTX exchanges. As of the date of this filing, I am not aware of any attorney or staff working on this matter that has a current account or cryptocurrency at either Celsius or FTX.

13. By reason of the foregoing and as set forth in the Application and the First Declaration, I continue to believe that Selendy Gay Elsberg is eligible for employment and retention by the Committee.

Dated: March 7, 2023
New York, New York

/s/ Jennifer M. Selendy
Jennifer M. Selendy
Partner, Selendy Gay Elsberg PLLC